

IN THE COURT OF APPEALS OF IOWA

No. 0-203 / 09-0350

Filed May 12, 2010

CHARLES A. TROBAUGH,
Applicant-Appellant,

vs.

STATE OF IOWA,
Respondent-Appellee.

Appeal from the Iowa District Court for Linn County, Mitchell E. Turner,
Judge.

Charles Trobaugh appeals from the denial of his application for
postconviction relief following a plea of guilty to public intoxication. **AFFIRMED.**

Mark C. Smith, State Appellate Defender, and Shellie L. Knipfer, Assistant
State Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Sharon Hall, Assistant Attorney
General, Harold Denton, County Attorney, and Todd D. Tripp, Assistant County
Attorney, for appellee.

Considered by Vogel, P.J., Eisenhauer, J., and Miller, S.J.*

*Senior judge assigned by order pursuant to Iowa Code section 602.9206 (2009).

MILLER, S.J.

Charles Trobaugh appeals from the denial of his application for postconviction relief following a plea of guilty to public intoxication. He contends the trial court erred in finding he had not proved that his plea of guilty was involuntary, in violation of his right to due process of law.¹ We review the denial of an application for postconviction relief to correct errors at law. *Harrington v. State*, 659 N.W.2d 509, 519 (Iowa 2003). Where, as here, an applicant alleges a constitutional violation, our review is de novo. *Ledezma v. State*, 626 N.W.2d 134, 141-42 (Iowa 2001).

On the night of September 16, 2005, Trobaugh called his ex-wife to ask her for help because he was injured and required medical treatment. Trobaugh reported that he had fallen, but could not recall where or what had happened. Police officers who arrived at the scene noted the odor of alcoholic beverage on Trobaugh's breath, and Trobaugh admitted to having consumed alcoholic beverages. The officers then discovered that a no-contact order existed, which prohibited Trobaugh from having contact with his ex-wife. He was consequently arrested and charged with public intoxication and violation of the no-contact order. The following day, September 17, Trobaugh pled guilty to the public intoxication charge.²

¹ In a pro se brief, Trobaugh also contends, "The district court erred when it implicitly held that the same due process protections due a guilty plea to a felony were not warranted for the same guilty plea to a simple misdemeanor." We find no basis for finding the district court made such a holding and, accordingly, we reject this claim.

² The record of the plea proceeding was destroyed during the flooding of the Linn County courthouse.

Trobaugh received a golf-ball-size bump on his head as a result of the fall he suffered on the night of his public intoxication arrest. He complained of head pain and difficulty with speech between September 18 and 20. On September 20, a CT scan at Mercy Hospital revealed Trobaugh suffered superficial parenchymal brain hemorrhages in the bilateral frontal regions and a secondary hemorrhage adjacent to the left temporal tip. An examination at the University of Iowa Hospitals and Clinics shortly thereafter resulted in a similar diagnosis. He received speech and physical therapy as a result of his injury.

On November 15, 2005, Trobaugh filed an application for postconviction relief challenging his guilty plea to the public intoxication charge. He alleged his plea was not voluntarily entered due to the serious injury he suffered on September 16. An evidentiary hearing was held on December 3, 2008. In a January 5, 2009 ruling, the district court denied relief, finding that although Trobaugh suffered a head injury, there was “no evidence to support the most important conclusion that this particular injury caused [Trobaugh]’s capacity for self-determination to be critically impaired at the time of the guilty plea on September 17, 2005.” After the court overruled his motion to reconsider, Trobaugh appealed.

Fundamental due process requires a guilty plea be voluntarily and intelligently entered. *State v. Speed*, 573 N.W.2d 594, 597 (Iowa 1998). That means a defendant must have full understanding of the consequences of a plea. *State v. Philo*, 697 N.W.2d 481, 488 (Iowa 2005). The overriding question, when looking at the whole record, is whether the defendant understood the elements of

the crime and nature of the charge against him. *Id.* Trobaugh has the burden to prove by a preponderance of the evidence his claim his guilty plea was not voluntarily entered. See *McKnight v. State*, 356 N.W.2d 532, 536 (Iowa 1984); *Hahn v. State*, 306 N.W.2d 764, 769 (Iowa 1981).

Trobaugh contends his plea was not knowing and voluntary because he suffered a serious head injury the night before his guilty plea. He argues that as a result he did not have the mental capacity to understand the plea proceedings or the charges to which he was pleading guilty. In support of his claim he cites the fact he was confused following his injury, had speech difficulties and vomiting while in jail, and a CT scan revealed he suffered intraparenchymal hemorrhages.

Although there is no doubt Trobaugh suffered a head injury, we conclude he has not shown by a preponderance of the evidence that at the time he entered his guilty plea his mental capacity was significantly impaired, much less critically impaired to the point he was not competent to decide to plead guilty and to do so. Trobaugh's medical records show his injury affected his language, memory, and balance, but there is no indication they impaired his ability to comprehend the charge against him or the consequences of a guilty plea. His doctor could not express an opinion as to whether his mental status was better or worse on September 17, 2005, than it had been at the time he received medical attention; his condition could have worsened or improved over time. Given the record before us, we affirm the district court's denial of Trobaugh's application for postconviction relief.

AFFIRMED.